

WILFRED PLOMIS

IBLA 81-1093

Decided September 23, 1982

Appeal from decision of the Colorado State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer C-33032.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

A simultaneous oil and gas lease application which is not signed in the space provided on the card must be rejected.

APPEARANCES: Wilfred Plomis, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Wilfred Plomis appeals from a decision of the Colorado State Office, Bureau of Land Management (BLM), dated August 17, 1981, rejecting his simultaneous oil and gas lease application for parcel CO-156 because it was not signed by the applicant as required by 43 CFR 3112.2-1(a). Appellant's application was drawn with first priority in the drawing held July 14, 1981.

In his statement of reasons, appellant acknowledges that the application was left unsigned. However, appellant argues that in the submission of an application "there is a preponderance of intent to consummate a contract--obtaining a federal oil and gas lease if successful." Further, appellant contends the defect should be treated as curable.

[1] The applicable regulation, 43 CFR 3112.2-1, provides in relevant part:

(a) An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, Bureau of Land Management, completed, signed and filed pursuant to the regulations in this subpart. The first applicant for a lease, as determined under the regulations in this subpart, who is qualified to hold a lease under the Act and the regulations in this title shall be entitled to submit an offer for the lease as described in § 3112.4-1 of this title.

(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant.

The regulations are mandatory and require strict compliance. The Board has consistently held that a simultaneous oil and gas lease application (formerly known as a drawing entry card) not properly signed or dated in the spaces provided on the card must be rejected. Bonita L. Ferguson, 61 IBLA 178 (1982); Walter M. Sorenson, 32 IBLA 345 (1977), aff'd, Sorenson v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978). 1/ A defective application for a noncompetitive oil and gas lease submitted pursuant to the simultaneous filing procedure is not curable after the drawing for the reason that the rights of the applicants receiving second and third priority have intervened. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). The Department is authorized to accept only the offer of the first qualified applicant, one who has fully complied with all mandatory regulations. Sorensen v. Andrus, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Gail M. Frazier
Administrative Judge

1/ The signing and dating of the lease application is a certification of applicant's qualifications at the time of application including the fact that no parties in interest other than those disclosed exist, that applicant has no interest in any other application for the same parcel, and that applicant has the required citizenship. Sorenson v. Andrus, supra at 501.

